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PTO/SB/64 (09-04)  
Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

DEP 5069

First named inventor: Tony A. Cutshall  
T

Application No.: 10/812,426

Art Unit:

Filed: March 30, 2004

Examiner:

Title: Acetabular Instrument and Associated Method

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1500.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

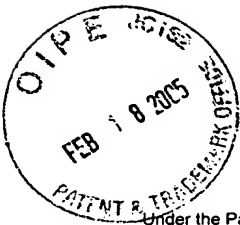
[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

<u>John S. Wagley</u> Signature	<u>February 15, 2005</u> Date
<u>John S. Wagley</u> Typed or printed name	<u>36,043</u> Registration Number, if applicable
<u>700 Orthopaedic Drive</u> Address	<u>(574) 372-7332</u> Telephone Number
<u>Warsaw, IN 46581</u> Address	

- Enclosures: ☐ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☒ Other: Petition for Extension of Time, Formal Drawings, Postcard

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

February 15, 2005  
Date

John S. Wagley  
Signature

John S. Wagley, Reg. # 36, 043  
Typed or printed name of person signing certificate



DOCKET NO. DEP 5069

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Tony A. Cutshall, et al.

Serial No.: 10/812,426

Art Unit:

Filed : March 30, 2004

Examiner:

For : Acetabular Instrument and Associated Method

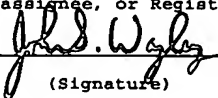
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts, Commissioner for Patents, Alexandria, VA 22313-1450 on

February 15, 2005

(Date of Deposit)

John S. Wagley

(Name of applicant, assignee, or Registered Representative)



(Signature)

February 15, 2005

(Date of Signature)

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Alexandria, VA 22313-1450

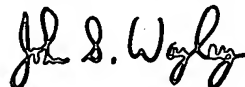
SUBMISSION OF CORRECTED APPLICATION PAPERS

Dear Sir:

Pursuant to Rule 53(f) and Rule 54, please find enclosed the corrected application papers for the application of Tony A. Cutshall, et al. entitled Acetabular Instrument and Associated Method attorney Docket No. DEP 5069, to complete, pursuant to Rule 51, this application filed on March 30, 2004 by Express Mail pursuant to Rule 10. As required, a copy of the Notice to File Missing Parts of Application is also attached.

Please charge Johnson & Johnson Deposit Account No. 10-0750/DEP5069/JSW in the amounts of \$130.00 for of the corrected application papers. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 10-0750/DEP5069/JSW. This sheet is submitted in triplicate.

Respectfully submitted,



John S. Wagley  
Reg. No. 36, 043  
Attorney for Applicant(s)

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